

**Town of Fishkill
Zoning Board of Appeals
April 18, 2006**

Minutes

Members Present

Barry Silverstein-Chairman
Maureen Kangas-Vice Chairman
Ronald Critelli
Lynne Raver
Marc Breimer-Alternate

Members Absent

MaryAnn Leenig
April Callahan-Alternate

Other Officials Present

Janis Gomez Anderson, Esq. – ZBA Attorney
Edward Peters – Building Inspector, Interim Zoning Administrator
Joel Petrus – Deputy Building Inspector

Notice of Appeal Hearing has been published in the Poughkeepsie Journal, The Southern Dutchess News and The Beacon Free Press.

Notified of the variance requests were the Town Board, Town Planning Board, Dutchess County Department of Planning, The Interim Zoning Administrator and the surrounding property owners.

The meeting of the Zoning Board of Appeals was called to order at 7:03 pm by the Chairman. He made announcements regarding the no smoking policy and the emergency exits and fire procedures.

Chairman Silverstein announced that Alternate Member Marc Breimer was on the Board for this meeting with full voting rights.

Chairman Silverstein called for comments or corrections to the minutes of the March 2006 meeting. Hearing none, he called for a motion to accept the minutes as written.

Lynne Raver made the motion to accept the minutes as written from the March 21, 2006 meeting.

Maureen Kangas seconded.

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
Marc Breimer – Aye

Votes:

ZB05-020, submitted by Antonio Scanga for new construction on Mountainview Rd

Maureen Kangas made the motion to Deny the variance request

Lynne Raver seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

Lynne Raver – Aye

Marc Breimer – Nay

Votes:

ZB06-003, submitted by Jonathan Michel for an addition to existing house

Lynne Raver made the motion to Deny the variance request

Maureen Kangas seconded

Motion Carried

Barry Silverstein – Nay

Maureen Kangas – Aye

Ronald Critelli – Aye

Lynne Raver – Aye

Marc Breimer – Aye

Votes:

ZB06-004, submitted by Toll Brothers for new construction on W. Merritt Blvd.

Maureen Kangas made the motion to Grant the variance request

Lynne Raver seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

Lynne Raver – Aye

Marc Breimer – Aye

Old Business

Continued Public Hearing for:

Grid Number: 5953-00-785450 Address: Melzingah Dam Rd

Application Number: ZB05-010, submitted by David Gianna and Denise Zottola, requesting the following variances. 1) front yard setback of 42.9ft where 75ft is required, 2) side yard setback of 37.9ft where 50ft is required, 3) minimum lot size of 1.52 acres where 4 acres is the minimum and 4) access to the property from other than the a main road.

Said requests are a violation of Chapters 150-33.A. and 150.26.A. of the Code of the Town of Fishkill.

Chairman Silverstein announced that the application was being amended and called for the representatives.

Debra McNamee from Civil Technologies presented to the Board. She stated that they submitted revised drawings and have addressed all of the (Town Engineer's) concerns.

Chairman Silverstein announced to the Floor that the application has been amended and the setback issues have been satisfied. Those variances have been withdrawn. The two remaining variances needed are for the undersized lot and for the driveway access and they now need a variance for the retaining wall, which will be 7 ft.

Janis Anderson stated that in regards to the letter responding to the Town Engineer's letter, she did speak directly with John Andrews and he felt that everything had been addressed. Ms. Anderson commented that Mr. Andrews' continues with the position, and she agrees with him, that if the variances are granted, that the conditions that he mentions in his letter be placed on the variance in addition to any map notes. If the Board decides to do this, she recommends a consultation with Mr. Andrews in regards to the specific language to be used for the conditions. Due to the difficulty of this site, Mr. Andrews is recommending that an engineer oversees the project to ensure that the construction remains in accordance with the building plans since they have worked hard to put these plans together.

Ms. Anderson reminded the Members that the Board has reviewed cases where houses were not constructed where the owners were told they would be, and then they needed variances.

Chairman Silverstein called for questions from the Board. Hearing none, he commented that this appeal has been through intensive sessions and called for questions or comments from the Floor.

Ethan Millrod commented that it was still an undersized lot. Chairman Silverstein confirmed that it was, and that it also was one of the requested variances.

Chairman Silverstein called for questions from the Board. Hearing none, he called for a motion to Close this Public Hearing.

Ronald Critelli made the motion to Close the Public Hearing

Lynne Raver seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

Lynne Raver – Aye

Marc Breimer – Aye

Chairman Silverstein called for any new business. Hearing none, he continued with the deliberations.

Deliberations

ZB05-010, Gianna, Melzingah Rd.

Chairman Silverstein called for comments.

Lynne Raver stated that she was comfortable with it. She would like to review the new drawing and needs to think about it. Marc Breimer also commented that with the various changes, he needs to review the new drawings. Maureen Kangas agreed with him.

Chairman Silverstein stated that he has gone through most of the paperwork. He stated that from the original presentation to what is now being presented, it has been dramatically reduced. The qualified engineers are in favor of it as long as the applicant agrees to the restrictions that will be based on John Andrews' letter.

Chairman Silverstein stated that if any of the Members have additional questions, they may contact John Andrews directly to speak with him.

Maureen Kangas asked if the Chairman had been to the site. Chairman Silverstein stated that he had been there originally when there were concerns regarding the road and the ice problems. He stated that he has not been back since. Ms. Kangas stated that she remembered the concern. She stated that the issue was addressed, but it is still there. Chairman Silverstein commented that regarding that issue, it is a matter of whether the Members are comfortable with it or not. Janis Anderson commented that there is a letter on file from the fire department stating that the road can be accessed.

Maureen Kangas asked for verification that this was a road that the residents need to maintain themselves. Janis Anderson confirmed that it was since it is a private road. Ms. Anderson advised that with this property, the applicant submitted the deed stating they have a right-of-way for this road.

Chairman Silverstein commented that all emergency services and highway department requirements have been met.

Janis Anderson asked the Applicant if they owned the property or are they in contract. Denise Zottola-Gianna advised that they are in contract. Ms. Anderson commented that it does not change anything, but she wanted to understand their situation. She commented that if they purchase the lot, their deed will also have the right-of-way on it.

Chairman Silverstein called for any additional business. Hearing none, he called for a motion to Adjourn the ZBA Meeting.

Lynne Raver made the motion to Adjourn the ZBA Meeting
Maureen Kangas seconded
Motion Carried

Meeting Adjourned at 7:14pm